

**CALIFORNIA BOARD OF ACCOUNTANCY**  
**INITIAL STATEMENT OF REASONS**

**Hearing Date:** March 20, 2009

**Subject Matter of Proposed Regulations:** Continuing Education

**1. Amend Section 80 of Title 16 of the California Code of Regulations**

**Specific Purpose:**

This proposal would amend Section 80 to require a licensee converting a license to an active status at the time of license renewal to complete a minimum of 20 hours of continuing education in the one-year period immediately preceding license renewal, with a minimum of 12 hours to be completed in technical subject areas. The purpose of requiring a licensee to complete a minimum number of hours prior to re-entry into the profession is to ensure a licensee is familiar with the latest accounting standards and practices.

This proposal would also make minor grammatical and non-technical wording changes to update and improve clarity and consistency of Section 80.

**Factual Basis/Rationale:**

Currently, Section 80 allows a licensee to place his/her license in an inactive status. Section 80 also outlines the requirements to renew a license in an inactive status, including the required fee, and establishes the guidelines for a licensee selecting to convert his/her license to an active status.

With rapidly changing technology, continual revision of tax laws and professional standards, a strong focus on an accountant's continued competency is essential. This regulatory change is necessary to ensure that a licensee re-entering the profession maintains a high level of competency in the laws and professional standards governing the profession prior to providing services to consumers.

Minor grammatical and non-technical wording modifications were made to subsections (a), (b), (c), (d), and (e) in order to improve readability of the section and establish consistency with other sections in this article.

## **2. Adopt Section 81 to Title 16 of the California Code of Regulations**

### **Specific Purpose:**

This proposal would require that a licensee renewing a license from an expired status to an active status complete 80 hours of qualifying education described in Section 87 in the two-year period immediately preceding the date on which the licensee applies for renewal. The purpose of this action is to clearly define the time period in which continuing education must be completed for a licensee renewing a license from an expired status to an active status.

The proposal also defines the terms “date of license renewal” and “expired” for purposes of this section.

### **Factual Basis/Rationale:**

Presently, the Board does not have continuing education requirements specific to a licensee renewing a license from an expired status to an active status. Section 87 of Title 16 of the California Code of Regulations requires that a licensee renewing a license in an active status complete 80 hours of continuing education in the two-year period immediately preceding license expiration. Section 87 does not provide the clarity necessary related to the time period continuing education must be completed by a licensee renewing a license after it has expired. This regulation is necessary to clearly establish such a time period, and creates a consistency will be established for all licensees renewing active such that all licensees renewing a licensee in an active status complete continuing education in a 24-month period.

The definitions purposed for Section 81 are specific to this section and provide needed information related to the terms “date of license renewal” and “expired.”

## **3. Amend Section 87 of Title 16 of the California Code of Regulations**

### **Specific Purpose:**

This proposed amendment establishes a new yearly continuing education requirement and a biennial ethics requirement. Specifically, the proposal would establish the following:

- A licensee renewing a license in an active status must complete a minimum of 20 hours of continuing education, with a minimum of 12 hours in technical subject matter (as described in Section 88(a)(1)), each year of a two-year license renewal period.
- A licensee renewing a license in an active status must complete a minimum of four hours in ethics education in subject matter pertaining to the following: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life

situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations. Classes are required to be a minimum of one hour.

The purpose of requiring that a licensee complete a minimum yearly continuing education requirement (emphasizing technical expertise) and increasing a licensee's exposure to ethics education is to ensure that a licensee maintains a currency of knowledge throughout the whole of the two-year licensure period, while also providing a licensee with the tools necessary to make objective ethical decisions during the course of public practice.

The proposal would also eliminate subsection (f) related to out-of-state licensees. The purpose of deleting this subsection is to establish consistency with the Board's Practice Privilege Program which provides out-of-state licensees practice rights in California.

Finally, the proposal would make minor grammatical and non-technical wording changes to update and improve clarity and consistency.

#### **Factual Basis/Rationale:**

Presently, Section 87 allows a licensee to complete the 80 hours of qualifying continuing education at any time during the 24-month period immediately preceding license expiration. Therefore, a licensee could select to complete all 80 hours either at the beginning or end of the 24-month period. A strong focus on an accountant's continued competency is essential in today's environment. This proposal is necessary to ensure a licensee is exposed to changes in the public accounting profession by requiring that a licensee complete continuing education throughout the entire licensure period.

In addition to adding a yearly continuing education requirement, the Board believes that increased exposure to ethics education is in the public's interest, and, therefore, the Board is phasing-out the present Professional Conduct and Ethics course requirement and establishing a biennial ethics requirement. Ethics underpin the accounting profession. Consumers who use an accountant's services expect an accountant to be highly competent, dependable, and objective. Making ethical choices requires ethics knowledge and ethical sensitivity. This proposal is necessary to emphasize the importance of ethics education to an accounting professional, and equip a licensee with the technical skills necessary to competently make effective ethical decisions during the course of his/her practice.

Present Section 87(f) provides a licensure applicant holding a certified public accountant (CPA) licensee in another jurisdiction practice rights in California while the application is being reviewed. Under the present provision, an applicant must demonstrate 80 hours of qualifying continuing education within the preceding two years.

With the enactment of the Practice Privilege Program in 2004, which became operative on January 1, 2006, a licensure applicant with a CPA license in another jurisdiction who

wishes to practice in California during the application process must obtain a practice privilege. As a result, Section 87(f) is no longer applicable, and it is therefore necessary to delete this section.

Finally, minor grammatical and non-technical wording modifications were made to subsections (a), (c) (old b), (d) (old c), and (e) (old d), and (f) (old e) in order to improve readability for the section and establish consistency with other sections in this article.

#### **4. Amend Section 87.1 of Title 16 of the California Code of Regulations**

##### **Specific Purpose:**

This proposal would establish that a licensee presently required to complete 80 hours of continuing education in the 24-month period prior to converting the license to an active status complete 20 hours of continuing education within the one-year period immediately preceding status conversion, with a minimum of 12 hours to be completed in technical subject areas. The purpose of requiring that a licensee complete a minimum number of hours prior to status conversion and re-entry into the profession is to ensure that a licensee is familiar with the latest accounting standards and practices.

This proposal would also delete the reference to the Professional Conduct and Ethics course requirement, and clarify that a licensee is required to fulfill the proposed ethics education requirement, and, if applicable, the regulatory review requirement. The purpose of this action is to establish a consistency with the continuing education requirements for all licensees re-entering the profession.

This proposal also would clarify that a licensee is required to fulfill the proposed ethics requirement (proposed 87(b)), and replaces the Professional Conduct and Ethics course requirement with the proposed regulatory review course requirement.

Finally, this proposal would make minor grammatical and non-technical wording changes to update and improve clarity and consistency of the Board's continuing education regulations.

##### **Factual Basis/Rationale:**

Similar to the proposed modifications to Section 80, this proposal would require that licensees re-entering the profession, complete a minimum number of hours in the year preceding re-entry. This regulatory change is necessary to ensure that licensees re-entering the profession maintain a high level of competency in the laws and professional standards governing the profession prior to providing services to consumers.

Current Section 87.1 requires a licensee complete a Professional Conduct and Ethics course if more than six years have elapsed since the licensee last completed the course. With the phasing-out of the Professional Conduct and Ethics course, it is necessary to clarify that a licensee re-entering the practice is required to complete the

proposed ethics education requirement, and, if applicable, the regulatory review requirement.

Minor grammatical and non-technical wording modifications were made to subsections (a), (b), (c), (e), (f), and (g) in order to improve readability for the section and establish consistency with other sections in this article.

## **5. Amend Section 87.7 of Title 16 of the California Code of Regulations**

### **Specific Purpose:**

This proposal would (1) establish that a licensee can continue to earn credit from completing a Professional Conduct and Ethics course in fulfillment of the proposed ethics continuing education and regulatory review requirements (Sections 87(b) and 87.8 respectively) provided the course was completed prior to January 1, 2011 and reported by January 1, 2012, (2) establish that a Board-approved Professional Conduct and Ethics course provider may continue to offer a course to a licensee to receive credit for fulfilling the ethics continuing education and regulatory review requirements until December 31, 2010, and (3) establish that the Board will no longer approve Professional Conduct and Ethics courses after June 30, 2009. The purpose of allowing a licensee to continue to claim, and a provider to offer, a Professional Conduct and Ethics course for the above-referenced specified time period is to ease the impact on a licensee and provider related to transitioning to the proposed ethics education and regulatory review requirements.

### **Factual Basis/Rationale:**

This rulemaking proposes to phase out the present Professional Conduct and Ethics course and, instead, require a licensee complete an ethics continuing education requirement at each renewal and a regulatory review requirement every six years. It is anticipated that several licensees may have completed a Professional Conduct and Ethics course prior to the proposed phase-out, and should be granted continuing education in fulfillment of the newly proposed ethics education and regulatory review requirements. Additionally, the Board believes a provider will need time to initiate changes to course offerings related to the proposed ethics education and regulatory review requirements. This proposal is necessary to minimize the overall impact to licensees and providers by establishing a clearly defined time period during which a licensee may take and receive credit for and a provider may offer a Professional Conduct and Ethics course.

## **6. Adopt Section 87.8 of Title 16 to California Code of Regulations**

### **Specific Purpose:**

This proposal would add Section 87.8 to Title 16 of the California Code of Regulations and require that a licensee renewing a license in an active status complete a course specifically on the California Accountancy Act and California Board of Accountancy Regulations. The course would emphasize the provisions applicable to current practice situations. In addition, the course would cover historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to a licensee being disciplined. The course would be a minimum of two hours, and licensees would be required to select from a list of Board-approved courses. The purpose of this regulation is to ensure that a licensee continues to receive exposure to the California laws governing the accounting profession.

**Factual Basis/Rationale:**

Presently, the Board requires that a licensee renewing a license in an active status complete a Professional Conduct and Ethics course once every six years. The course is required to be minimum of eight hours and a portion of the content covered during those eight hours is devoted to the California Accountancy Act and California Board of Accountancy Regulations.

The Board believes a licensee's increased exposure to ethics education is in the public's interest, and therefore, will be requiring that licensees complete ethics education as part of every renewal. (See Section 87 above.) In doing so, the Board is proposing to phase out the present Professional Conduct and Ethics course. The Board still believes that it is imperative a licensee maintain a currency of knowledge related to California laws governing the accounting profession.

The Board is proposing that a licensee renewing a license in an active status complete a course once every six years on the statutes and regulations governing the practice of public accountancy in California. The course content also will focus on disciplinary actions taken by the Board. The Board believes that this course should only be required once every six years, as opposed to a more frequent basis, because of the following reasons:

- The Board maintains a continually updated Web site where licensees can easily access the California Accountancy Act and California Board of Accountancy Regulations.
- The Board annually mails its publication *Update*, which provides licensees with information on any new or potential legislation or regulation.
- In addition to updating the Web site, the Board issues interim mailings regarding any new regulatory proposals.

**7. Add Section 87.9 to Title 16 of the California Code of Regulations**

**Specific Purpose:**

This proposal establishes the requirements for a potential provider to have a regulatory review course approved by the Board, the purpose of which is to establish minimum standards for approving a course for compliance with proposed Section 87.8. The proposal also establishes a biennial renewal requirement for a Board-approved regulatory review course, the purpose of which is to ensure that a provider update the course to reflect current laws and enforcement violations. Finally, the proposal establishes an appeals process for a provider either denied initial approval or a provider whose approval has been discontinued by the Board. The purpose of instituting an appeals process is to ensure that a provider is afforded due process.

#### **Factual Basis/Rationale:**

As part of the Professional Conduct and Ethics course, which the Board is proposing to phase out, the Board required that a licensee select from a list of approved providers. The Board is proposing to continue this requirement for a provider seeking to offer a regulatory review course. The Board believes that an approval process is necessary in order to maintain a level of consistency related to information and materials provided to a licensee related to the regulatory review course. To ensure this consistency, the Board has proposed establishing minimum standards that require a provider complete a prescribed application, ensure the program is a formal program of learning, supply a licensee with the current statutes and regulations, undergo pre-testing of the course materials, and ensure the course is comprised of specific statutory and regulatory articles specific to the practice of public accountancy.

Additionally, a provider must verify to the Board the currency of a regulatory review course in order for the course to continue to benefit a licensee. Therefore, the proposal outlines the minimum requirements for a provider to renew an existing Board-approved course, whereby a provider certifies the content of a course.

Finally, the proposal would add an appeals process that did not previously exist with the Board's Professional Conduct and Ethics requirement. This is necessary to ensure any provider aggrieved by a decision reached by Board staff related to the approval or continued approval of a provider's course is offered the necessary due process.

### **8. Amend Section 88 of Title 16 of the California Code of Regulations**

#### **Specific Purpose:**

This proposal would add allowable subject areas to the technical requirement, while removing the reference to the Professional Conduct and Ethics course. Specifically, the proposal would add fraud, as well as the newly established ethics education and regulatory review course requirements (defined in amended Section 87 and newly added Section 87.8, respectively) as acceptable technical continuing education. The purpose is to ensure that a licensee can meet the technical subject area requirement when completing courses in the area of fraud detection in financial statements, ethics education, and the regulatory review course.

Additionally, the proposal would clarify that a licensee can only claim continuing education for written articles or books, provided that the article or book would contribute directly to his/her professional competency, the purpose of which is to close a gap related to having a licensee claim continuing education hours for written materials not germane to the practice of public accountancy.

Finally, this proposal would make minor grammatical and non-technical wording changes to update and improve the clarity and consistency of the Board's continuing education regulations.

### **Factual Basis/Rationale:**

Current Section 88 defines those programs that qualify as acceptable continuing education. The regulation requires that a licensee renewing a license in an active status complete a minimum of 50 percent (40 hours) of the required 80 hours of continuing education in technical subject areas. Presently, the areas are defined as accounting, auditing, taxation, consulting, financial planning, professional conduct as defined in Section 87.7, computer and information technology (except for word processing), and specialized industry or government practices that focus primarily upon the maintenance and/or enhancement of the public accounting skill and knowledge needed to competently practice public accounting.

The Board has determined that ethics, fraud, and regulatory review education are instrumental in ensuring licensees maintain a currency of knowledge in the profession, and are therefore technical subject areas. This proposal is necessary to clearly define these subject areas as technical.

This proposal also would provide greater clarity regarding when a licensee can claim continuing education for writing articles and books. Current Section 88 simply states that a licensee can claim continuing education for writing published articles and books provided the publisher is not under the control of a licensee. The underlying purpose of continuing education is to maintain or increase a licensee's ability to competently practice public accountancy. It is not the intent of the Board for a licensee to simply receive continuing education credit for merely authoring an article or book that is not germane to the practice of public accountancy. This proposal is necessary to clearly define that the article or book would need to directly contribute to a licensee's professional competence.

Minor wording changes were made to subsections (a)(1) and (2) to remove the date July 1, 2001, which is no longer relevant as all renewals are made after that date. Additionally, minor grammatical and non-technical wording changes were made to subsection (f)(1), (2), and (3) to capitalize the first letter of each sentence.

## **9. Amend Section 88.1 of Title 16 of the California Code of Regulations**



**Specific Purpose:**

This proposal would require that a provider place the following information on the certificate of completion: certification by a program provider representative, such as a signature or seal, and delineation of the subject areas covered in the course. The purpose is to assist the Board in verifying information self-certified by a licensee at the time of renewal.

The proposal would also remove a date reference in subsection (b) that is no longer applicable.

**Factual Basis/Rationale:**

Current Section 88.1 establishes provider requirements for live presentations, group internet-based programs (webcast), and self-study programs. A licensee must ensure that a provider of a course meets these minimum requirements in order for a course to qualify as continuing education. As part of the requirements, a provider must issue a certificate of completion to each licensee upon satisfactory completion of the course.

On occasion, a licensee is required to submit certificates of completion to substantiate the hours claimed on the renewal application. The Board believes this proposal is necessary to assist in determining the legitimacy of the documentation provided by a licensee, whereby the certification of completion would clearly document certification by a program representative attesting to the completion of the course. Additionally, since a provider has the option to cover multiple subject areas during a singular course, this proposal is necessary to assist the Board in clearly identifying and reconciling various subject areas claimed by a licensee at the time of renewal.

The date reference to July 1, 2007 was removed from subsection (b) since all group internet-based programs are developed after July 1, 2007.

**10. Amend Section 88.2 of Title 16 of the California Code of Regulations****Specific Purpose:**

This proposal would add the minimum program measurement requirements for a provider calculating continuing education hours for a program designed to fulfill the Board's ethics requirement. Specifically, the proposal would require that a program designed to meet the ethics continuing education requirement using a live presentation or group internet-based program (webcast) be a minimum of one 50-minute class hour, and that if multiple subject areas are covered during the program, time devoted to ethics education must be a minimum of one 50-minute class hour. For a program designed to meet the ethics continuing education requirement using a self-study format, the program must be a minimum of one class hour, and if multiple subject areas are covered during the program, time devoted to ethics education must be a minimum of one class hour. The purpose of this proposal is to establish a consistency with proposed amendment

Section 87(b), which requires that a course be a minimum of one 50-minute class hour.

In addition, a self-study program specific to ethics must require a passing score of 90 percent to qualify toward the four hours required for license renewal. This is consistent with the pass rate for Board-approved Professional Conduct and Ethics self-study courses, presently being phased-out. The Board has elected to maintain the 90 percent pass rate for ethics courses offered in a self-study format with the proposed ethics education continuing education requirement. The purpose of this proposal is to effectuate this change and instruct a potential provider that a 90 percent pass rate is required for an ethics course developed using a self-study format.

This proposal would also make minor grammatical and non-technical wording changes to update and improve clarity and consistency.

**Factual Basis/Rationale:**

These regulatory changes are necessary to create a consistency with the ethics education continuing education requirement proposed in Section 87. Proposed Section 87(b) would require that the course be a minimum of one class hour. To ensure that programs are measured accordingly, Section 88.2 needs modification to instruct a provider that when developing a program designed to fulfill a licensee's ethics education requirement, the program must be a minimum of one class hour.

The Board believes a licensee's exposure to ethics education is in the best interest of the public. The 90 percent pass rate for a self-study course is designed to emphasize the importance of ethics education.

Minor wording changes were made to the subsections (b)(1) and (b)(3) (old (2)). In subsection (b)(1) "at least" was replaced with "a minimum of" to increase readability. The date reference to July 1, 2007 was removed from subsection (b)(3) since all group internet-based programs are developed after July 1, 2007.

**11. Amend Section 89 of Title 16 of the California Code of Regulations**

**Specific Purpose:**

This proposal would amend the minimum requirements for information disclosed on the certificate of completion. Specifically, the proposal would require that verification by a program provider representative, such as a signature or seal, be evidenced on certificates of completion. The purpose of this proposal is to establish consistency with amendments proposed in this rulemaking specific to Section 88.1.

In addition, the proposal would make minor grammatical and non-technical wording changes to update and improve the clarity and consistency with other Board continuing education regulations.

**Factual Basis/Rationale:**

Current Section 89 establishes the continuing education control and reporting requirements. This proposal is necessary to create consistency with proposed provider requirement modifications related to certificates of completion outlined in Section 88.1. In addition, with the phasing-out of the eight-hour Professional Conduct and Ethics course, Section 89(b) needs to be updated to reflect the newly established two-hour regulatory review course.

This proposal would make minor non-technical wording changes to subsection (b) to modify the term “his or her” to “his/her” in order to create consistency with other sections in this article.

**THE FOLLOWING RELATE TO ALL SECTIONS OF THIS PROPOSAL.**Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any): None

Business Impact

This regulation will not have a significant adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. These changes will not be of sufficient magnitude to have the effect of creating or eliminating businesses.

This initial determination is based on the following facts or evidence/documents/testimony: None

Specific Technologies or Equipment

These regulations do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

*Alternative for Section 87*

The Board considered requiring a licensee renewing that a license in an active status complete 20 hours of continuing education yearly, with a minimum of 10 hours completed in technical subject areas. The Board's rationale for requiring a licensee complete 12 hours in technical subject areas was twofold. First, the Board wanted to stress the importance of maintaining technical expertise during the two-year licensure period. Secondly, since most continuing education courses are offered in four and eight hour segments, it would be easier for a licensee to fulfill the requirement.

*Alternative for Section 87.9*

The Board considered using internal staff or contracting with an outside vendor to develop a regulatory review course. The Board elected not to select this course of action for the following reasons:

- Requires significant staff time to develop, and/or assist in developing, the course.
- If outsourced, it would require the Board to enter into a contract with an outside entity.
- Staff would be responsible for ensuring updates to the course once it is developed, or would need to outsource this function to a contractor.
- The course would be developed solely as a self-study course and would eliminate the option for live presentation or webcast formats.